STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 12365 (Application 17375)

U. S. Bureau of Reclamation

ORDER APPROVING MODIFICATION OF THE PERMIT

SOURCE:

Clear Creek

COUNTY:

Shasta

WHEREAS:

- 1. Permit 12365 was issued to U. S. Bureau of Reclamation on July 28, 1960, pursuant to Application 17375.
- 2. A request for modification of it's water right permit was filed with the State Water Resources Control Board (SWRCB) on March 15, 2001, and the SWRCB has determined that good cause for such modification has been shown. Notice of the modification request was issued on October 24, 2001, and no protests were received.
- 3. The SWRCB has determined that the modification to the permit does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
- 4. The permit conditions relating to the continuing authority and water quality objectives of the SWRCB should be updated to conform to section 780(a) & (b), title 23 of the California Code of Regulations.
- 5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 12365 IS AMENDED TO READ AS FOLLOWS:

1. Condition 9 of the Permit is replaced with the following term:

Permittee shall by-pass or release over, under, around, or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resource such flows as are provided for in Provision 2.1 of that certain document entitled "Instream Flow Preservation Agreement by and among U. S. Bureau of Reclamation U.S. Fish and Wildlife Service and California Department of Fish and Game", dated August 11, 2000, a copy of which is filed with the State Water Resources Control Board.

2. Condition 10 of the Permit is replaced with the following term:

This Permit is subject to "Agreement between the United States and G.E. Oaks" dated May 23, 1960, a copy of which is filed with the State Water Resources Control Board.

3. The continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

4. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

P. 12365

SEE WR 91-01 dated January 10, 1991

ALSO SEE WR 91-03 dated April 1, 1991

SEE ORDER: WR 92-02, DATED MARCH 19, 1992

For full information concerning the filling out of this form refer to Article 4 of Rules and Regulations Pertaining to Appropriation of Water

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

Application No. 17375 Filed November 28, 1956, at 1:13 P. M. (Applicant must not fill in the above blanks)
APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER
I, U. S. Bureau of Reclamation
of P. Co Box 2511 Sacramento County of Sacramento
State of California , do hereby make application for a permit to appropriate the
following described unappropriated waters of the State of California, SUBJECT TO VESTED RIGHTS:
Source, Amount, Use and Location of Diversion Works
1. The source of the proposed appropriation is Clear Creek
Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed
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2. The amount of water which applicant desires to appropriate under this application is as follows:
(a) For diversion to be directly applied to beneficial use cubic feet per
second, to be diverted from January 1 to December 31 of each year
Beginning date Closing date
(b) For diversion to be stored and later applied to beneficial use 250,000 acre-feet
per annum, to be collected between November 1 and April 1 of each season
Beginning date Closing date Closing date Note.—Answer (a) or (b) or both (a) and (b) as may be necessary. If amount under (a) is less than .025 cubic foot per second, state in gallons per day. Neither the amount nor the season may be increased after application is filed. If underground storage is proposed a special supplemental form will be supplied by the State Water Rights Board upon request.
3. The use to which the water is to be applied is POWET Domestic, irrigation, power, municipal, mining, industrial, recreational
purposes
• •
4. The point of diversion is to be located Whiskeytown Dem, N 16° E, 2760 feet from SW corner State bearing and distance or coordinate distances from section or quarter section corner
of Section 27, T32N, R6W, MDB&M. For point of rediversion see Supplement.
being within the NW ¹ ₁ of SW ¹ ₂
State 40-acre subdivision of public land survey or projection thereof
of Section 27 , T. 32N , R. 6W , M. D. B. & M., in the County of Shasta Keswick Dam
5. The main conduit terminates in NW1 of SW1 of Sec. 21, T. 32N, R. 5W, M. D. B. & M. State 40-acre subdivision of U. S. Government survey or projection thereof
Description of Diversion Works
NOTE.—An application cannot be approved for an amount grossly in excess of the estimated capacity of the diversion works.
6. Intake or Headworks (fill only those blanks which apply)
(a) Diversion will be made by pumping from Sump, offset well, unobstructed channel, etc.
(b) Diversion will be by gravity, the diverting dam being Whiskeytown Dam, 260 feet in height (stream bed to
level of overflow); 2,150 feet long on top; and constructed of earth and rockfill Whiskeytown Dam Concrete, earth, brush, etc.
(c) The storage dam will be 260 feet in height (stream bed to overflow level); 2150 feet
long on top; have a freeboard of 81 011 feet, and be constructed of earth and rockfill
7. Storage Reservoir Whiskeytown Reservoir Sections 4,5,8 and 9, T32N, R5W, Sections 1 16,20,21,28,29 and 2, T32N, R5W
The storage reservoir will flood lands in Indicate section or sections, also 40-acre subdivisions unless shown upon map
It will have a surface area of 3250 acres, and a capacity of 250,000 acre-feet.

In case of insufficient space for answers in form, attach extra sheets at top of page 3 and cross reference.

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2-6-80 name chaptor U.S. Water + Power Resources Service Under this application upward to 1,900 c.f.s. of water would flow, via Spring Creek Tunnel, to the Spring Creek Powerplant to fall a maximum of 636 feet developing (theoretically) 137,315 h.p.

This quantity would be rediverted at Keswick Reservoir to fall a maximum of 101 feet and theoretically develop 21,808 h.p.

FORM 61-A

IMPORTANT

[Please Read Carefully]

- 1. Note the terms and conditions of this permit. Construction work must be prosecuted, and the water applied to the beneficial uses intended with due diligence. Annual reports of progress will be expected from you upon forms which will be furnished for the purpose. When the water has been fully applied to the beneficial uses intended the Water Code requires that you notify the State Water Rights Board thereof.
- 2. Neither this application nor the permit is a water right, but if the terms and conditions of the permit are observed a water right can be obtained through beneficial use of the water—the extent of the right to be determined by a field inspection which will be made by a representative of the State Water Rights Board.
- 3. No change in point of diversion, or place of use or character of use, can be made under this application and permit without the approval of the State Water Rights Board.
- 4. If the rights under this permit are assigned immediate notice to that effect with the name and address of the new owner should be forwarded to the State Water Rights Board, Sacramento, California.
- 5. Please advise immediately of any change of address. Until otherwise advised comrused in the letter transmitting this permit.

APPLICANT MUST NOT FILL IN BLANKS BELOW

PERMIT No. 12365

This is to certify that the application of which the foregoing is a true and correct copy has been considered and approved by the State Water Rights Board SUBJECT TO VESTED RIGHTS and the following limitations and conditions:

- 1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 1900 cubic feet per second by direct diversion to be diverted from January 1, to December 31, of each year and 250,000 acre-feet per annum by storage to be collected from about November 1 of each year to about April 1 of the following year.
- 2. The maximum amounts herein stated may be reduced in the license if investigation warrants.
- 3. Actual construction work shall begin on or before June 1, 1961, and shall thereafter be prosecuted with reasonable diligence and if not so commenced and prosecuted, the permit may be revoked.
 - 4. Said construction work shall be completed on or before December 1, 1965.
- 5. Complete application of water to proposed beneficial use shall be made on or before December 1, 1990.
- 6. In accordance with Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees and vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.
- 7. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board.
- 8. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interests of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- 9. Permittee shall by-pass or release over, around or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resources such flows as are provided for in Provision 1 of that certain document entitled "Memorandum of Operating Agreement for Streamflow Maintenance for the Protection and Preservation of Fish and Wildlife and the Recreational Resources Attendant Upon Clear Creek as Affected by Whiskeytown Dam and its Related Works and Diversions of Water Under Contract with the United States," dated March 31,1960, a copy of which is filed with the State Water Rights Board.
- This permit is subject to "Agreement between the United States and G. E. Oaks" and "Agreement between the United States and the Townsend Flat Water Ditch Company both dated May 23, 1960, copies of which are filed with the State Water Rights Board.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

THE MARKET TO YOUR

Dated: JUL 2 8 1960

STATE WATER RIGHTS BOARD

L. K. Hill

Executive Officer

15. Municipal Use. This application	Name city or cities, town or towns, Urban areas only
	having a present population of
The estimated average daily consumption	during the month of maximum use at the end of each five-year period until the full
amount applied for is put to beneficial use	e is as follows:
77. 77	ning property to be served is
	ATHEN SE CAME
Part of the Windowski State of the Translation and Autorities for the Contract of the Contract	and the nature of the mines is
It is estimated that the ultimate water req	uirement for this project will be Cubic feet per second, gallons per minute. State basis of estimate
WIII HOL	emicals or otherwise
and it will be returned to	inof
17. Other Oses. The nature of the t	Industrial, recreational, domestic, stockwavering, fish culture, etc.
State basis of determination of amount n	eeded. Number of persons, residences, area of domestic lawns and gardens, number and kind of stock, type
industrial use, and unit requirements.	
namerin me, and mis requirements,	
	General
18. Are the maps as required by the R	ules and Regulations filed with Application? Yes Yes If not,
state specifically the time required for f	iling same
	the proposed point of diversion? No
	A Cal Of A TO
	e been taken to secure right of access thereto. Agreements will be made
with owners.	
20. What is the name of the post office	most used by those living near the proposed point of diversion?
Shasta, California	<u> </u>
21. What are the names and addresse	s of claimants of water from the source of supply below the proposed point of
	al, Redding, California. Diverters from the Saeltzer Dam
Q2 V CI SIOII I	